<center>**REMARKS**</center>

Claims 1-16, 19, 20, and 31-35 will be pending upon entry of this amendment. Claims 1-16, 19, 20, 31, and 32 have been amended. Support for these amendments may be found generally in specification, as well as in the originally filed claims. No new matter has been added.

CLAIM REJECTIONS UNDER § 103 OVER *GODFREY*, *HILE* AND *FISH*

The Office rejects claims 1-16, 19, 20, and 31-35 under 35 U.S.C. § 103 over *Godfrey* (2008/0089302) in view of *Hile* (2002/0023140) and *Fish* (2007/0239609). Office Action, pp. 2-6. Applicant respectfully traverses.

The Proposed Combination Does Not Teach or Suggest All Claimed Elements

Claim 1, as amended, recites, in part:

> 1.   A method comprising:
>   a local computer periodically polling a server for task requests stored on
>   the server and generated by a remote computer distinct from the
>   local computer ...
>   in response to said periodically polling, the local computer receiving a
>   subsequent one of said task requests, wherein at least portion of
>   said subsequent one of said task requests comprises a request for a
>   file stored on the local computer ....

Hence, claim 1 recites "*a local computer periodically polling a server for task requests*" that are "*generated by a remote computer distinct from the local computer*." In other words, the entity that "periodically polls a server" (*i.e.*, the "local computer") <u>is not</u> the same entity that generates tasks requests (*i.e.*, the "remote computer"). Claim 1 also recites that the "*file [is] stored on the local computer*." Thus, the entity that "periodically polls a server" <u>is</u> the same entity that has the requested file (*i.e.*, the "local computer").

The Examiner admits that *Godfrey* does not disclose "periodic polls by the [local computer]," and relies upon *Hile* as allegedly curing this deficiency. *See* Office Action, p. 3. Contrary to the Examiner's assertion, however, Applicant respectfully submits that *Hile* does not

teach or suggest this element. Generally speaking, *Hile* discloses a "method for transferring data files" between a "sender" and a "recipient." *Hile*, ¶¶ [0017]-[0030]. Both *Hile*'s sender and recipient purport to have a "transfer agent" that performs some sort of "periodic polling." *Id.*, ¶¶ [0019] and [0027]. Yet, neither *Hile*'s sender nor recipient performs "periodic polling" in a way that would teach or suggest the elements recited in claim 1.

For example, on *Hile*'s sender side, the entity that performs "periodic polling" (*i.e.*, *Hile*'s "sender") is the same entity that requests a file (*i.e.*, via *Hile*'s "send form"). *See, e.g.*, *Hile*, ¶¶ [0018] ("To schedule or register a file transfer, the user fills in the [s]end form...."); [0019] ("Next, the selected file must be transferred from the sender's computing device to the server. The transfer agent is responsible [and] must poll the server application to determine which (if any) data files are to be uploaded .... [T]he transfer agent may be executed at periodic time intervals ...."). In contrast, according to claim 1, the entity that performs "periodic polling" (*i.e.*, local computer) is not the same entity that generates task requests (*i.e.*, a remote computer). Thus, *Hile*'s sender does not meet the recited "local computer periodically polling a server for task requests stored on the server and generated by a remote computer distinct from the local computer."

Further, on *Hile*'s recipient side, the entity that performs "periodic polling" (*i.e.*, *Hile's* "recipient") is not the same entity where the requested file is stored. *See, e.g.*, *Hile*, ¶¶ [0027] ("the recipient's computing device is configured with a ... transfer agent[, and its] transfer agent may periodically poll the server for tasks ...."); [0029] ("the recipient can pick which data files are to be downloaded to their computing device."). This again is in contrast with claim 1, where the entity that performs "periodic polling" is the same entity that stores the requested file. Hence, *Hile*'s recipient also does not meet the recited "local computer periodically polling a server for task requests ... for a file stored on the local computer."

Applicant notes that *Fish* is not relied upon by the Office as teaching or suggesting these elements. Accordingly, Applicant asserts that neither *Godfrey*, *Hile* nor *Fish*, taken alone or in combination, teach or suggest "a local computer periodically polling a server for task requests stored on the server and generated by a remote computer distinct from the local computer ... [and] in response to said periodically polling, the local computer receiving a subsequent one of

said task requests, wherein at least portion of said subsequent one of said task requests comprises a request for a file stored on the local computer," as recited in claim 1.

Although independent claims 8 and 15 recite certain elements that may be different from those recited in claim 1, similar arguments apply. Accordingly, Applicant respectfully requests that the 35 U.S.C. § 103 rejection of claims 1, 8, and 15 over *Godfrey* in view of *Hile* and *Fish* be withdrawn. Claims 2-7, 9-14, 16, 19, 20, 31, and 32 depend from claims 1, 8, or 15, and therefore are patentably distinct from these references for at least the same reasons.

In addition, Applicant notes that claim 15 now recites, in part:

> 15. (Currently amended) A system comprising a local computer having at least one hardware processor and at least one memory communicatively coupled to said hardware processor, the at least one memory having stored therein computer-executable instructions that implement, on the local computer:
> …
> a schedule timer communicatively coupled to the task processor that, in operation, controls the polling interval ….

The Office relies upon *Hile*'s "recipient side" as allegedly disclosing this element. *See* Office Action, p. 6 (citing *Hile*, ¶ [0027]). However, on *Hile*'s "recipient side," the entity that allegedly "controls the polling interval" is not the same entity where the requested file is stored (*i.e.*, "local computer"). Thus, for similar reasons presented above, *Hile* does not teach or suggest or suggest "a schedule timer [implemented on the local computer] … that, in operation, determines the polling interval."

Furthermore, to the extent the Office may also rely upon *Hile*'s "sender," as teaching or suggesting these elements, Applicant notes that *Hile*'s sender's periodic time intervals are "**controlled by the server**" in order to make scheduled and automatic deliver[ies]." *Hile*, ¶ [0019] (emphasis added). Thus, neither *Hile*'s "recipient side" nor its "sender side" teach or suggest "a schedule timer [implemented on the local computer] communicatively coupled to the task processor that, in operation, controls the polling interval." Claims 31 and 32, although dependent from claims 1 and 8, respectively, recite similar elements for purposes of this discussion. At least for these additional reasons, Applicant asserts that claims 15, 31, and 32 are patentably distinct from the proposed combination of *Godfrey* with *Hile* and *Fish*.

The Proposed Combination is Improper

Applicant asserts that the proposed combination of *Godfrey* with *Hile* is improper at least because: (A) *Hile* would change the principle of operation of *Godfrey*; (B) *Godfrey* teaches away from *Hile*; and (C) the proposed combination would render *Godfrey* unsatisfactory for its intended purpose.

(A)   *Godfrey* would change the principle of operation of *Hile*

As discussed above, *Godfrey*'s paradigm is incompatible with that of *Hile*. According to *Hile*, the sender of a "data file" accesses a "send form" through a "web browser" in order to select individual files when the "user desires to transfer" those files. *See, e.g., Hile*, ¶¶ [0016]-[0019]. To illustrate *Hile*'s file selection process, Applicant draws attention to the figure below:

Hile, FIG. 5 (portion of "send form" described by *Hile* as enabling file selection). As shown in this figure, *Hile*'s user selects individual files when "the user desires to transfer" those files. *See also, id.* at ¶ [0016]. In contrast with *Hile*, *Godfrey* discloses a system of "automated and continuous redirection." *See, e.g., Godfrey*, ¶¶ [0005] ("the assignee of the instant application has developed a more automated, continuous, efficient and reliable system and method of ensuring that user data items are replicated at a user's mobile communication device."); [0006] ("In such automated and continuous redirection system ...."). According to *Godfrey*, "[u]ser-selected data items or certain portions of the selected data items stored at a host system are continuously redirected or 'pushed' to a user's mobile data communication device upon occurrence of a user-defined triggering event." *Id.*

Therefore, *Godfrey*'s system "continuously redirects" data items, whereas *Hile*'s system is based on an individual file selection process that takes place when "the user desires to transfer" such files. Hence, Applicant respectfully submits that introducing *Godfrey's* "continuous redirection" system into *Hile*'s system would require a substantial reconstruction and redesign of the elements of *Hile*, as well as a change in the basic principles under which *Hile* was designed to operate. "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." *In re Ratti*, 270 F.2d 810, 813 (CCPA 1959).

Accordingly, Applicant asserts that the proposed combination of *Godfrey* with *Hile* is improper, and respectfully requests that the 35 U.S.C. § 103 rejection of claims 1-16, 19, 20, and 31-35 be withdrawn.

(B)   *Godfrey* teaches away from *Hile*

Applicant submits that *Godfrey* teaches away from the type of file transfer disclosed in *Hile*. According to *Godfrey*:

> Known systems and methods for replicating information from a host system to a user's mobile data communication device are typically "synchronization" systems in which the user's data items are warehoused (or stored) at the host system for an indefinite period of time and then transmitted in bulk only in response to a user request....
>
> *A general problem with these synchronization systems is that the only time that the user data items are replicated between the host system and the mobile data communication device is when the user commands the mobile device to download or pull the user data from the host system*. At some later time a new message could be sent to the user, but the user would not receive that message until the next time the user fetches the user data items. Thus, a user may fail to respond to an emergency update or message because the user only periodically synchronizes the system, such as once per day. *Other problems with these systems include: (1) the amount of data to be reconciled between the host and the mobile device can become large if the user does not "synchronize" on a daily or hourly basis, leading to bandwidth difficulties, particularly when the mobile device is communicating via a wireless packet-switched network; and (2) reconciling large amounts of data, as can accrue in these batch-mode synchronization systems, can require a great deal of communication between*

> *the host and the mobile device, thus leading to a more complex, costly and energy-inefficient system.*
>
> *In order to address such disadvantages of pull-based data item synchronization systems, the assignee of the instant application has developed a more automated, continuous, efficient and reliable system and method of ensuring that user data items are replicated at a user's mobile communication device.* User-selected data items or certain portions of the selected data items stored at a host system are continuously redirected or "pushed" to a user's mobile data communication device upon the occurrence of a user-defined triggering event.

Godfrey, ¶¶ [0003]-[0005] (emphasis added). Applicant respectfully submits that *Hile*'s system is akin to the "synchronization" systems described in *Godfrey*, at least insofar as *Hile*'s "data file" must "await[] delivery." *Hile*, ¶¶ [0027] ("if a data file is awaiting delivery, the server application returns an instruction to display a delivery-waiting message to the recipient."); [0028] ("[t]his prompts the recipient to start their web browser in order to view the pending deliveries.") ; [0029] ("[t]o download a data file, the recipient selects one or more of the pending deliveries displayed on the web page."). As noted above, *Godfrey* teaches away from this type of system:

> *Instead of warehousing (or storing) the user's data items at the host system and then "synchronizing" a mobile data communication device to data items stored at the host system when the mobile device requests that such items of information be communicated to it, systems in which the present invention may be deployed preferably employ a "push" paradigm that continuously packages and retransmits the user-selected items of information to the mobile communication device* ….

Id. at ¶ [0024] (emphasis added).

In sum, Godfrey describes problems with *Hile*'s "synchronization" approach and teaches away from such by proposing an alternative "automated and continuous redirection" system. Because "[i]t is improper to combine references where the references teach away from their combination" (*In re Grasselli*, 713 F.2d 731, 743 (Fed. Cir. 1983)), Applicant asserts that the proposed combination of *Godfrey* with *Hile* is improper, and respectfully requests that the 35 U.S.C. § 103 rejection of claims 1-16, 19, 20, and 31-35 be withdrawn.

(C)   The proposed combination would render *Godfrey* unsatisfactory for its intended purpose.

Applicant submits that the very feature of *Hile* that the Office seeks to introduce into *Godfrey*—*i.e.*, "periodic[] poll[ing] by the [local computer]"—would render *Godfrey* unsatisfactory for its intended purpose. *See* Office Action, p. 3. Particularly, if one were to combine *Hile* with *Godfrey* so that *Godfrey* could "periodically poll" a server, the resulting combination would not be able to perform *Godfrey*'s goal of "continuous redirection."

To further explain this point, Applicant notes that *Godfrey* describes a system where "[u]ser-selected data items or certain portions of the selected data items stored at a host system are continuously redirected or 'pushed' to a user's mobile data communication device upon the occurrence of a user-defined triggering event." *Godfrey*, ¶ [0005]. In other words, upon receipt of its "triggering event," *Godfrey*'s system "continuously packages and retransmits the user-selected items of information to the mobile data communication device." *Id.*, ¶ [0024].

On the other hand, *Hile* describes a system where "a user desires to transfer one or more data files between two client computing devices…." *Hile*, ¶ [0016]. Then, the "user starts their web browser and requests a [s]end form from [a] web server." *Id.* at ¶ [0017]. "To schedule or register a file transfer, the user fills in the '[s]end form'." *Id.* at ¶ [0018]. After filling out the "send form" through the web browser, "the selected file must be transferred from the sender's computing device to the server." *Id.* at ¶ [0019].

Thus, in *Hile*, a user selects individual files for transmission, one or more files at a time. In contrast, *Godfrey*'s system is based on "continuous[] redirect[ion] … upon the occurrence of a user-defined triggering event." Therefore, if one were to combine *Hile* with *Godfrey* so that *Hile*'s alleged "remote client computer" could allegedly "periodically poll" a server, the resulting combination would not be able to perform continuous redirection al least because the user would select individual files for transfer and fill out "send forms" prior to each transfer. As a result, adding *Hile* to *Godfrey* would render *Godfrey* unsatisfactory for its intended purpose of "continuous redirection." *See, e.g., Godfrey*, Abstract. "If [a] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is

no suggestion or motivation to make the proposed modification." M.P.E.P. § 2143.01(V) citing *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984).

Accordingly, Applicant asserts that the proposed combination of *Godfrey* with *Hile* and *Fish* is improper, and respectfully requests that the 35 U.S.C. § 103 rejection of claims 1-16, 19, 20, and 31-35 be withdrawn.

CONCLUSION

Applicant respectfully submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such extension.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 6257-33902/LVP.

Respectfully submitted,

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By: /Luiz von Paumgartten/
Luiz von Paumgartten
Reg. No. 52,330

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P. O. Box 398
Austin, Texas 78767
(512) 853-8800